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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,509	06/11/2001	Michael L. Haile	14073	4071

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EXAMINER

RAJGURU, UMAKANT K

ART UNIT PAPER NUMBER

1711

DATE MAILED: 04/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

MF-3

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. Claims 1-16 are under examination.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, 7, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 is indefinite in containing an improper Markush terminology. The correct format is "selected from the group consisting of" (not consisting essentially of).

*most  
since clms are  
cancelled  
Oct 31, 2002*

Similar remarks apply to claims 6, 7, 14 and 15.

Claims 6 and 14 are additionally vague because it is not specified what "modified polysaccharides" means, which specific modifications of polysaccharides are envisioned.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt, J. (USP 6071325).

Schmitt discloses a binder composition and a process for agglomerating particulate material (abstract; col. 2, lines 44-61). Particulate material is mixed with a binding effective amount of a water-soluble polymer and caustic. Water-soluble

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polymers include starch, guar gum, lignin etc, polyacrylamides, polyacrylates and copolymers thereof (col. 3, line 54 to col. 4, line 7). Amounts of polymer and caustic are set forth in col. 5, lines 29-33. Composition may include polysaccharides (col. 5, lines 47-65).

Schmitt does not mention his invention as being directed to a "tackifier". It is noted that though instant invention is named as a "tackifier", it is directed to a composition which is sprayed on certain area to control (by agglomeration) particulate matter (see specification, page 3, lines 17-20). Schmitt teaches the same objective by his invention. It would therefore have been obvious to follow teachings of Schmitt and arrive at invention as claimed. It is also reasonable to infer that the caustic of Schmitt acts as a crosslinking agent in the said composition.

5. Claims 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt, J. (USP 6071325) as applied to claim 1 above, and further in view of Roe et al (USP 4751259) and West et al (USP 5459181)

(West is of record on PTO-1449, Paper No. 2).

Disclosure of Schmitt is presented in short form earlier.

Schmitt does not mention sodium borate, sodium metaborate etc. (of instant claim 7), surfactant (of instant claim 8) and fiber (of instant claim 9).

Roe discloses compositions for iron ore agglomeration. Such a composition comprises (a) an emulsion of vinyl addition polymer, (b) a polysaccharide, (c) a surfactant and (d) borax (col. 1, lines 31-40).

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West discloses as hydraulic binder composition (abstract). The composition comprises a polymer, an amine-formaldehyde condensate and a catalyst (col. 3, line 59 to col. 4, line 7). Also added to the composition are fibers (col. 5, lines 26-47).

Hence, it would have been obvious to add to the composition of Schmitt, borax and surfactant (of Roe), as well as fibers (of West) because (1) borax improves formation of more pellets in the correct size range and also increases dry strength of pellets and (2) fibers impart a high degree of resistance (to wind and ~~erosion~~) to the composition after it is applied by spraying.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U. K. Rajguru whose telephone number is (703) 308-3224. The examiner can normally be reached on Monday-Friday from 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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U.K. Rajguru/dh

April 19, 2002



**James J. Seidleck**  
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